

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

FRANK R. OWENS,  
Plaintiff,

vs.

VERLYN ISAAC, et al.,  
Defendants.

No. C06-16 -EJM

ORDER

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This matter is before the court on plaintiff's Notice of Appeal filed on December 3, 2007.<sup>1</sup> *See* Fed. R. App. P. 4(a). The court previously granted the plaintiff in forma pauperis status, and it is appropriate to allow the plaintiff to proceed on appeal in forma pauperis. *See* Fed. R. App. P. 24. Pursuant to the procedure set forth by the Eighth Circuit Court of Appeals in *Henderson v. Norris*, 129 F.3d 481 (8th Cir. 1997), the plaintiff is liable for the \$455.00 appeal fees upon the filing of his notice of appeal. *Henderson*, 129 F.3d at 484; *see also* 28 U.S.C. § 1914(b) (directing Clerk of Court to collect "additional fees only as are prescribed by the Judicial Conference of the United States"). Accordingly, the plaintiff shall be assessed an initial appellate partial fee of \$35.00, which he is shall be directed to submit immediately to the Clerk of Court. *Id.* *See also* 28 U.S.C. § 1915(b)(1). The plaintiff shall be directed to submit monthly payments of 20 percent of the preceding month's income credited to his inmate account until the \$455.00 appeal fees are paid in full. 28 U.S.C. § 1915(b)(2). The agency having custody of the plaintiff shall be directed to forward payments from his inmate account to the Clerk of Court each time the amount in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2).

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<sup>1</sup>The Notice of Appeal was sent to the Court of Appeals, rather than to the District Court. The Court of Appeals forwarded the Notice to the District Court, and further noted that it should be filed as of the date received at the Court of Appeals, December 3, 2007.

It is therefore

**ORDERED**

1. Plaintiff is assessed appellate fees in the total amount of \$455.
2. Plaintiff shall submit an initial partial appellate fee of \$35 to the Clerk of Court.
3. Plaintiff shall submit monthly payments of 20 percent of the preceding month's income credited to his inmate account until the \$455.00 appeal fees are paid in full. The agency having custody of the plaintiff shall be directed to forward payments from his inmate account to the Clerk of Court each time the amount in the account exceeds \$10.00.
4. The Clerk of Court is directed to forward this matter to the Eighth Circuit Court of Appeals for further disposition.

December 13, 2006.

  
Edward J. McManus, Judge  
UNITED STATES DISTRICT COURT

**TO: WARDEN/ADMINISTRATOR**  
**Iowa State Penitentiary**  
**Fort Madison, Iowa**

**NOTICE OF COLLECTION OF FILING FEE**

You are hereby given notice that Frank Russell Owens, #1114355, an inmate at your facility, has filed the following appeal in the United States District Court for the Northern District of Iowa: *Owens v. Isaac*, Case No. C06-16 EJM. The inmate was granted in forma pauperis status pursuant to 28 U.S.C. § 1915(b), which requires partial payments of the \$455.00 appellate fees. The court has assessed an initial partial filing fee of \$35.00 which the inmate must pay now to the Clerk of Court. 28 U.S.C. § 1915(b)(1); *see also Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997).

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the Clerk of Court each time the amount in the account exceeds \$10 until the filing fees are paid.

28 U.S.C. § 1915(b)(2). If the inmate currently does not have sufficient funds to pay the initial partial filing fee, you must monitor the account and send payments to the Clerk of Court according to the system provided in 28 U.S.C. § 1915(b)(2).

Please make the appropriate arrangements to have these fees deducted and sent to the court as required under the statute.

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Robert Phelps  
U.S. District Court Clerk  
Northern District of Iowa